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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Paul HABERMANN

Examiner: Robert B. Mondesi

Art Unit: 1653

Application No.: 10/076,631

Filed: February 19, 2002

Title: Nucleic Acids, Proteins, And Processes
Thereof Such as Processes For
Production Of Supersecretable Peptides
And For Parallel Improvement of the
Exported Forms of One Or More
Polypeptides of Interest

TELEFAX CERTIFICATE

I hereby certify that this correspondence is being
transmitted via facsimile to the Commissioner for
Patents, Alexandria, VA 22313, on

May 17, 2005
Date of Transmittal

Dilip Coughlin
Signature

REPLY TO RESTRICTION REQUIREMENT

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sirs,

In response to the Office Action mailed March 24, 2005, requiring restriction of the claims, for which the time to respond has been extended one (1) month to May 24, 2005 by the accompanying petition and payment of the appropriate fee, Applicants elect, with traverse, Group I, drawn to a nucleic acid molecule which encodes a fusion protein, a multi-copy vector comprising the said nucleic acid molecule and a host cell comprising the multi copy vector, classified in class 536, subclass 23.4. Group I includes claims 1 - 3 and 6 - 12.

Applicants traverse the restriction of Groups I and II. The Examiner argues that the protein product of claims 4 and 5 can be made by a materially different method other than recombinantly, such as by synthetic peptide synthesis or purification. However, the protein recited in claims 4 and 5 requires that the DNA sequence recited in the claims of Group I encode it. Hence, peptide synthesis is out of the question. With regards to "purification", the claims as written require that some type of purification is performed, even if recombinant methods are used. With regards to the DNA, there is no limitation on the claims for how the DNA is used. The claim is to a biochemical composition of matter and not to a process of use. The uses include expressing the DNA in an expression vector or hybridizing the DNA in a hybridization assay. Applicants respectfully submit that the Examiner reconsider the restriction placed on Groups I and II and allow for these claims to be examined together.

The Commissioner is authorized to charge any additional fees or credit any overpayment necessitated by this response to Deposit Account No. 18-1982.

Respectfully submitted,


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